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Hamilton Region Conservation Authority
Leasing of properties on the Hamilton Beach Strip
Oct 1981

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STAFF REPORT

on

LEASING OF PROPERTIES ON THE HAMILTON BEACH STRIP

BACKGROUND

In 1976, the Conservation Authority, in co-operation with the City Of Hamilton and the Provincial Government, started a land acquisition program on the Beach Strip. To date, 130 residences have been acquired.

After an acquisition is made, the property is leased back to the City of Hamilton under a 99 year lease for maintenance and ultimate park development for recreational and open space purposes.

Maintenance costs of the 130 properties have proved to be high and problems have been encountered with several Beach Strip residents who are making unauthorized use of vacant lots for private purposes. In view of this, the City of Hamilton is presently considering the possibility of subletting acquired properties to third parties. Under the long term lease between the City and the HRCA, no subletting is allowed unless approved by the HRCA. Accordingly, a formal request was made by the City and the HRCA Executive Committee, at a meeting held on October 1, 1981, requested staff to consider the request and prepare recommendations.

REVIEW

There are pros and cons to subletting arrangements. On the negative side, the following concerns come to mind:

- Administration and enforcement costs may well exceed potential sublease income.

- Sublease arrangements may be difficult to enforce.

- Overall maintenance costs may not be substantially lowered as City maintenance crews will still have to come to the Beach Strip to maintain properties which are not sublet.

- Depending on the wording of the lease agreement, there may be potential difficulties in reassuming full City control.

- There may be increased legal liabilities on the part of the City and/or the HRCA.

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- The Conservation Authority is acquiring these lands for public purposes. As responsible public landowners, the HRCA, the City and the Province have an obligation to maintain the property up to reasonable standards. By subletting the properties, the City may lose the control it presently has over the degree and adequacy of property maintenance.

- The long term project objective is to acquire all Beach Strip properties for open space and recreational purposes within a reasonable time period. There is the potential that the realization of this objective will be slowed down when subletting arrangements are entered into. The Beach Strip is being acquired at great cost to the taxpayer and the responsible acquisition agencies therefore have an obligation to ensure that the project be completed as expediciously as possible.

Arguments in favour of allowing the City to sublease are the following:

- It may lower interim property maintenance cost.

- It may make it easier for the City to deal with requests for sublease arrangements.

- It utilizes a resource which otherwise would be non-productive.

RECOMMENDATION

Taking the above points into consideration, staff has concluded that, from the HRCA point of view, little is to be gained by subletting arrangements. However, the City of Hamilton is an equal partner in this project and if the City considers it advisable to enter into sublease arrangements, then the HRCA should not stand in the City's way. If therefore, in the final analysis, the City decides to enter into formal sublease arrangements, then the HRCA should require the following conditions.

1. *Reaffirmation by the City that it is in full agreement with the long term objectives of the project.*

2. *That sublease arrangements only be considered if it is in the best interest of the taxpayer at large, i.e., income derived or services rendered must result in a saving to the taxpayer.*

3. *That subleases be limited to adjacent landowners and be on a one year basis with the City and/or the HRCA to reserve the right to terminate the lease on short notice if, in its opinion, the continuation of the lease is not in the best long term interest of the project.*

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4. *That subletting only be permitted for gardening and landscaping purposes. No structures, portable or otherwise, are to be permitted. All other uses such as car parking, storage, etc., are to be prohibited.*

5. *Existing property fences are not be be moved to include sublet areas.*

6. *Any and all liabilities are to be assumed by the City and/or the sublessee.*

Prepared by: B.W. Vanderbrug
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Ancaster, Ont.
November 5, 1981

BWV/sg

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